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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA

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7 JESUS R. MEDINA, an individual as Trustee of
8 the JESUS R. MEDINA AND ANGELICA M.
MEDINA REVOCABLE LIVING TRUST,

Case No. 2:19-cv-00858-RFB-NJK

ORDER

9 Plaintiff,

10 v.

11 BANK OF AMERICA, N.A. a foreign
12 corporation; MTC FINANCIAL INC., dba
13 TRUSTEE CORPS; BAYVIEW LOAN
14 SERVICE, LLC; MORTGAGE ELECTRONIC
15 REGISTRATION SYSTEMS, INC., a nominee
for AEGIS WHOLESALE CORPORATION, as
beneficiary; BANK OF NEW YORK MELLON,
a foreign corporation; DOES I through X; and
ROE CORPORATIONS I through X, inclusive,

16 Defendants.
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18 **I. INTRODUCTION**

19 Before the Court are Plaintiff Jesus Medina's Motion for Preliminary Injunction, ECF No.
20 1-1 at 20, and Motion to Remand to State Court, ECF No. 11. Also before the Court is Defendants
21 Bayview Loan Servicing, LLC, Bank of New York Mellon, Mortgage Electronic Registration
22 Systems, Inc., and Bank of America, N.A.'s Motion to Dismiss, ECF No. 12.

23 The Court dismisses this action without prejudice for lack of jurisdiction as the Court finds
24 that this matter falls within the jurisdiction of the Bankruptcy Court of the Eastern District of
25 California.

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27 **II. PROCEDURAL BACKGROUND**

28 Plaintiff sued Defendants in state court on May 7, 2019. ECF No. 1-1. On Plaintiff's

1 motion, the state court issued a temporary restraining order to enjoin Defendants from foreclosing
2 on Plaintiff's property. Id. Defendants removed the matter to this Court on May 20, 2019. ECF
3 No. 1. The Court extended the temporary restraining order, set a hearing on the motion for
4 preliminary injunction, and ordered briefing on whether a preliminary injunction should issue.
5 ECF Nos. 3–4, 6.

6 On the parties' stipulation, the Court delayed the hearing on the preliminary injunction.
7 ECF No. 6. The Court also ordered briefing on whether the matter should be transferred to the
8 Eastern District of California for referral to the Bankruptcy Court. Id. The Court noted that the
9 Bankruptcy Court had previously approved a cramdown stipulation between Plaintiff and
10 Defendant Bank of New York Mellon in relation to the property that Defendants seek to foreclose
11 on. Id.

12 Plaintiff now moves to remand the matter to state court, ECF No. 11, and Defendants move
13 to dismiss the matter, ECF No. 12. Both motions are opposed. ECF Nos. 16, 18. The motion for
14 preliminary injunction has not been resolved. See docket.

15 The Court has vacated the hearing on the motion for preliminary injunction, opting to issue
16 a written order instead. ECF No. 14. Since vacating the hearing, Defendants filed a status report,
17 indicating their intent to foreclose on the property absent an order enjoining the foreclosure. ECF
18 No. 20.

19 20 **III. FACTUAL BACKGROUND**

21 The Court makes the following factual findings. Plaintiff purchased the property at 230
22 Wicked Wedge Way, Las Vegas, Nevada 89148 in 2006. Plaintiff claimed bankruptcy in March
23 2013 in the Bankruptcy Court of the Eastern District of California. The bankruptcy action affected
24 and altered the mortgage payments on the Wicked Wedge property. Specifically, the Bankruptcy
25 Court issued a cramdown order in 2014 according to a stipulation reached between Plaintiff and
26 Defendant Bank of New York Mellon. The cramdown order creates a payment plan on the
27 mortgage of the property, setting the monthly payment at \$1,281.91.

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1 Plaintiff submitted mortgage payments to Defendants from May 2014 to January 2017 in
2 the amount of \$1,097.75—not \$1,281.91, the amount stated in the cramdown order. Plaintiff
3 alleges that he believed \$1,097.75 was the amount required under the bankruptcy plan. Defendants
4 accepted the payments and failed to inform Plaintiff that the monthly payments were insufficient.

5 In February 2017, Defendants informed Plaintiff that he owed \$12,819.10 in arrears.
6 Plaintiff has attempted to cure the deficiency, but Defendants allegedly rebuffed the attempts.

7 Plaintiff now sues Defendants, alleging three claims: (1) fraud and slander of title, (2)
8 breach of contract laches waiver, and (3) breach of duty of good faith and fair dealing. Plaintiff
9 also seeks to prevent Defendants from foreclosing on the property.

10 In response to the motion to dismiss, Plaintiff attaches a proposed amended complaint and
11 states its intent to “file [the amended complaint] in the proper jurisdiction” once the pending
12 motions are resolved.

13 14 **IV. DISCUSSION**

15 The Court finds that this matter should proceed before the Bankruptcy Court. “Title 28
16 U.S.C. § 1334(b) vests jurisdiction over bankruptcy matters in the district court by conferring
17 jurisdiction over all civil proceedings arising under title 11.” In re Franklin, 802 F.2d 324, 326
18 (9th Cir. 1986) (internal quotation marks omitted). “Cases arising under section 1334(b) are in
19 turn delegated to the bankruptcy courts through 28 U.S.C. § 157.” Id. Thus, under 28 U.S.C. §§
20 157(a) and 1334, a district court may refer a matter to a bankruptcy court if the matter arises under
21 or relates to the Bankruptcy Code. In re Ray, 624 F.3d 1124, 1130–31 (9th Cir. 2010).

22 “[I]t is well recognized that a bankruptcy court has the power to interpret and enforce its
23 own orders.” In re Wilshire Courtyard, 729 F.3d 1279, 1289 (9th Cir. 2013). The Ninth Circuit
24 has held that the forgoing results in bankruptcy courts having “jurisdiction over [a] declaratory
25 judgment action if such an action requir[es] a bankruptcy judge to determine the effect of a
26 prior order of the bankruptcy court[.]” Id. “Requests for bankruptcy courts to construe their own
27 orders must be considered to arise under title 11” and thus fall within the jurisdiction of bankruptcy
28 courts. Id.; see also In re Ray, 624 F.3d at 1130–31. A bankruptcy court retains “ancillary

1 jurisdiction if re-opening [a] case is necessary ... to enable the bankruptcy court to vindicate its
2 authority and effectuate its decrees.” Id. “[B]ankruptcy court orders are not subject to collateral
3 attack in other courts.” In re Gruntz, 202 F.3d 1074, 1082 (9th Cir. 2000).

4 The Court finds that the issues of this litigation fall within the jurisdiction of the
5 Bankruptcy Court and not this Court since the issues concern the enforcement of the cramdown
6 order. The cramdown order set the monthly mortgage payment. The cramdown order also
7 addresses the state law remedies available to the creditors in the event of a post-confirmation
8 material breach. Because the gravamen of the complaint centers on a possible material breach of
9 the cramdown order and a possible waiver of rights to state law remedies despite the cramdown
10 order, the Court finds that the disputes arise under the cramdown order issued by the Bankruptcy
11 Court. The Bankruptcy Court therefore retains ancillary jurisdiction “to interpret and enforce its
12 order,” In re Wilshire Courtyard, 729 F.3d at 1289, and “to vindicate its authority.” In re Ray, 624
13 F.3d at 1130–31. To allow this matter to proceed here would require this Court to effectively
14 modify the cramdown order or to enforce the cramdown order. Such actions fall within the
15 jurisdiction of the Bankruptcy Court of the Eastern District of California and not within this
16 Court’s jurisdiction.

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18 **V. CONCLUSION**

19 **IT IS THEREFORE ORDERED** that Defendants’ Motion to Dismiss (ECF No. 12) is
20 GRANTED in part. This matter is DISMISSED without prejudice for lack of jurisdiction and
21 should proceed before the Bankruptcy Court of the Eastern District of California

22 **IT IS FURTHER ORDERED** that Plaintiff’s Motion to Remand (ECF No. 11) is
23 DENIED for the same reasons noted.

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25 DATED: July 3, 2019.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE